IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

S.B. CIVIL WRIT PETITION NO.4052/2001- RAJKUMAR TYAGI VS. MANAGING DIRECTOR, MODERN INSULATOR LTD. & ORS. UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 22nd December, 2006

PRESENT

HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Mr.D.K. Parihar, Advocate, for the petitioner.
Mr. Rajesh Joshi, Advocate for the respondents.

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BY THE COURT:

Challenge in this writ petition has been made to the award passed by the learned labour court dated 12.4.2001. By the aforesaid award, the learned labour court held that the retrenchment of the petitioner by the respondents from their services by order dated 4.7.1991 was not legal and valid and therefore he would be entitled to reinstatement with 20% of the back wages. It was alternatively directed that in case the employer does not want to reinstate the workman, it may pay to him a sum of Rs.50,000/- in lump sum in lieu of reinstatement within a period of three months.

The petitioner has challenged the award on the ground that the learned labour court has not given any reasons for directing the lump sum compensation of Rs.50,000/- in lieu of reinstatement as in the case of a fellow employee Shri Sanjay Kumar Shah, the very same labour court has awarded compensation of Rs.56,000/- instead of Rs.50,000/-.

Shri Rajesh Joshi, learned counsel for the respondents argued that the services of the petitioner with the respondents was limited only about two and half years inasmuch as the learned labour court has already taken a lenient view in his favour while granting excessive amount of Rs.50,000/-. Moreover, the alleged termination of the petitioner was made on 4.7.1991 and the award was passed after 10 years i.e., on 12.4.2001. He therefore prayed that the writ petition may be dismissed.

Having considered the arguments advanced by learned counsel for the parties, I am satisfied that the award passed by the learned labour court does not suffer from any error apparent on the face of record except with regard to quantum of compensation. When a similarly situated employee was paid

amount of compensation in the sum of Rs.56,000/- then same amount also deserves to be paid to the petitioner and therefore the award passed by the learned labour court is modified to that limited extent.

The writ petition is accordingly partly allowed and the respondents are directed to pay to the petitioner a sum of Rs.56,000/- instead of Rs.50,000/- as compensation in lieu of reinstatement. If the compensation amount as originally directed has not been paid, shall now be paid and in case, such amount has been paid, the additional amount of Rs.6,000/- shall be paid to the workman within a period of three months from the date of receipt/service of copy of this judgment.

There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.

c.p.goyal/-